properly directed, containing a notice to quit, is proved to have been put into the post-office, it is presumed that the letter reached its proper destination at the proper time according to the regular course of business of the post-office, and was received by the person to whom it was addressed.

In my view taking these two authorities together, a notice to quit sent by registered post is effective at the time when the notice would have been delivered in the ordinary course of the post.

In the instant case the notice to quit was posted at Kuala Lumpur on January 30, 1982 to an address at Kuala Lumpur and in the ordinary course of the post would have been delivered on the following day. The notice to the appellant would have been effective then. But January 30, 1982 was a Saturday and there is no postal delivery on a Sunday. The February 1, 1982, although a Monday, was a public holiday in Kuala Lumpur being Federal Territory Day and there was no postal delivery on that day either. In the normal course of the post therefore, the effective date was February 2, 1982. The fact that it was delivered on February 6, 1982 is not the fault of the respondent. In the circumstances of this case, the notice should have been posted on January 29, 1982 at the latest. I accordingly held that the notice to quit dated January 30, 1982 did not determine the tenancy. In the event, I allowed the appeal with costs and set aside the order of the learned Magistrate in respect of the respondent's claim.

Appeal allowed.

Solicitors: *T. Ariarajah & Co.; Adlan & Haji Suhaimi & Co.*

CHAN CHOW WANG v. MALAYSIAN BAR

[O.C.J. (Harun, Vohrah & Zakaria Yatim JJ.) January 22, 1986]

[Kuala Lumpur – Originating Motion No. A7 of 1985]

Legal Profession – Application to have name restored to Roll of Advocates and Solicitors – Test to be applied – Whether it is fair and reasonable to readmit the applicant to the Bar – Legal Profession Act, 1976, ss. 93(2), 101 & 107(1)

This was an application by the applicant that his name be restored to the Roll of Advocates and Solicitors under section 107 of the Legal Profession Act. The applicant was admitted as an Advocate and Solicitor of the High Court in Malaya on August 8, 1969. Prior to practising in Malaysia he had practised in Singapore from 1969 to 1974. On November 22, 1974 he was struck off the Roll of Advocates and Solicitors by the High Court of Singapore. He then practised in Malaysia from 1975 to 1979. On March 29, 1979 he was disbarred and expelled from the Honourable Society of Lincoln's Inn by the Senate of the Inns of Court. On November 17, 1979 he was struck off the Roll of Advocates and Solicitors in Malaya. On February 11, 1985 the High Court of Singapore ordered that the name of the applicant be restored to the Roll of Advocates and Solicitors in Singapore. However, the Special Council of Lincoln's Inn did not readmit or reinstate the applicant to the Bar of England and Wales.

Held: the test to be applied is whether in the circumstances of the case it is fair and reasonable to re-admit the applicant to the Bar. The re-admission to the Bar in Malaya must be considered independently of his re-admission to the Bar in Singapore or the refusal of the Honourable Society of Lincoln's Inn to reinstate him to the Bar of England and Wales. On a full consideration of the facts and circumstances of the case, the Court was satisfied that it is fair and reasonable to re-admit the applicant to the Bar of Malaya.

Cases referred to:

(1) *Ex parte Clyne* [1962] State Reports (N.S.W.) 436, 443.
(2) *Re Chin Swee Oon* [1964] M.L.J. 124.

ORIGINATING MOTION.

Raja Abdul Aziz Addruse for the applicant.
Sri Ram for the Bar Council.

Cur. Adv. Vult.

Harun J. (**Vohrah** and **Zakaria Yatim JJ.** concurring): This is an application by Chan Chow Wang for an order that his name be *restored* to the Roll of Advocates & Solicitors under section 107 of the Legal Profession Act, 1976 (the Act).

Mr. Chan was called to the Bar of the Honourable Society of Lincoln's Inn on November 21, 1967. He was admitted as an advocate & solicitor of the Supreme Court of Singapore on October 9, 1968; and admitted and enrolled as an advocate & solicitor of the High Court in Malaya on August 8, 1969. He practised in Singapore from 1969 to 1974 and in Malaysia from 1975 to 1979. On November 22, 1974 he was struck off the Roll of Advocates & Solicitors by the High Court of Singapore. On March 29, 1979 he was disbarred and expelled from the Honourable Society of Lincoln's Inn by the Senate of the Inns of Court. On November 17, 1979 he was struck off the Roll of Advocates & Solicitors of the High Court in Malaya. On February 11, 1985 the High Court of Singapore ordered that the name of Mr. Chan be restored to the Roll of Advocates & Solicitors. On June 12, 1985 the Special Council of the

Honourable Society of Lincoln's Inn did not consider that there was any proper reason to warrant re-admission of Mr. Chan to the Honourable Society or reinstatement to the Bar of England & Wales. A disbarment is not intended to be permanent: see *Ex-parte Clyne.*[1] That this is so is obvious from the existence of section 107(1) of the Act itself which provides –

"The High Court may, if it thinks fair and reasonable, at any time order the Registrar to restore to the Roll the name of an advocate & solicitor which has been removed from, or struck off the Roll."

Each case has to be considered in the light of its own facts: *Re Chin Swee Oon.*[2] The test therefore, is whether, in the circumstances of the case, it is *fair and reasonable* to re-admit the Applicant to the Bar.

In applying the test, it is necessary first to consider the conduct which led to the Applicant's disbarment. In the instant case Mr. Chan was struck off the Roll because he had been found guilty by the Disciplinary Committee and the High Court of Singapore of –

(a) grossly improper conduct in entering into a champertous agreement with his client to accept as his fee 10% of any damages recovered in the event of success;

(b) fraudulent conduct in representing to the client that the insurers of the employers of her son had offered to pay $3,300 as damages instead of $4,000 actually offered;

(c) fraudulent conduct in deducting from the amount paid to him by the insurers the sum of $1,000 without disclosing this to the client.

These are very serious offences committed by an advocate and solicitor in the performance of his professional duties. In re-admitting applicants to the Bar, the Court has a duty to litigants and to the legal profession to ensure that such persons are of the highest integrity and honour. The Court must also be satisfied, in the public interest, that the Applicant is not likely to repeat these offences if he is re-admitted. The onus is therefore on the Applicant to show that –

(a) there has been such a change in his character as to make him a fit and proper person to resume practice at the Bar;

(b) he is truly penitent; and

(c) he has made restitution.

In the present case the Applicant has shown that –

(a) After the disbarment from Singapore he practised in Malaysia and observed the ethics of the profession;

(b) He has suffered professionally, socially and economically; and is truly repentent;

(c) He has made restitution.

The Disciplinary Committee of the Bar of Malaya in striking off Mr. Chan from the Roll under section 101 of the Act held that due cause had been shown under section 93(2)(1) of the Act. That sub-section reads –

"Due cause may be shown by proof that the advocate & solicitor in Malaysia or elsewhere has been, or is liable to be, disbarred, struck off, suspended or censured in his capacity as a legal practitioner in any other country;"

The reason for his being struck off the Roll in Malaysia is that he had been disbarred in Singapore. We do not condone the offences he had committed in Singapore especially with regard to the non-disclosure of costs. We are, however, of the view that his re-admission to the Bar in Malaya must be considered independently of his re-admission to the Bar in Singapore or the refusal of the Honourable Society of Lincoln's Inn to reinstate him to the Bar of England and Wales. In this regard we do not subscribe to the view of the Bar Council that Mr. Chan cannot be re-admitted because the Honourable Society of Lincoln's Inn refused to re-admit him to that Society and therefore is no longer a Barrister which qualification makes him a "qualified person" for admission to the Bar in Malaya. In our opinion the requirement of a qualified person applies only to the initial admission to the Bar under section 10 but does not arise in cases of re-admission (as here) under section 107 of the Act.

On a full consideration of the facts and circumstances of this case, we are satisfied that it is fair and reasonable to re-admit Mr. Chan to the Bar of Malaya. We accordingly ORDER the Registrar to restore to the Roll of Advocates & Solicitors the name of Mr. Chan Chow Wang. We further order that all costs of this application shall be borne by the Applicant.

Application allowed.

Solicitors: *Rithauddeen & Aziz; Sri Ram Zulkifly & Kumar.*